

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Byung-in MA et al.

Serial No. 10/617,256

Group Art Unit: 2627

Confirmation No. 2425

Filed: July 11, 2003

Examiner: Tawfik A. Goma

For: METHOD AND APPARATUS FOR DETECTING RADIAL TILT

COMMENTS REGARDING STATEMENT OF REASONS FOR ALLOWANCE

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

In the above identified application, the Examiner provided a Statement of Reasons for Allowance in which the Examiner indicated that the claims were allowed based on certain features. The Statement of Reasons for Allowance was forwarded in the Notice of Allowability mailed November 27, 2007.

MPEP §1302.14 states, in part:

Where specific reasons are recorded by the examiner, care must be taken to ensure that statements of reasons for allowance (or indication of allowable subject matter) are accurate, precise and do not place unwarranted interpretations, whether broad or narrow upon the claims. The examiner should keep in mind the possible misinterpretations of his or her statement that may be made and its possible estoppel effects.

The reasons for allowance set forth on page 2 of the Notice of Allowance include the Examiner's recitation of certain elements found in some of the allowed claims, as well as remarks regarding various references which the Examiner asserts as known in the related art. It is respectfully submitted that these remarks are not proper "reasons for allowance" as directed by 37 C.F.R. §1.104 and as explained in MPEP §1302.14. At least the following items render

the Examiner's statement of reasons for allowance improper under this rule.

The Examiner's remarks regarding the patentably distinguishable element of the present application only address a tilt detector as the basis for the reasons for allowance. However, only some of the allowed claims are drawn to a tilt detector, various other allowed claims are drawn to a method of detecting a radial tilt of a disc, while others are drawn to a computer readable medium.

Accordingly, it is respectfully submitted that the Examiner's statement is not an accurate quote with respect to each of the allowed claims. It is further respectfully submitted that the claims speak for themselves and should not be interpreted based on the Examiner's characterizations of the same. It is respectfully submitted that the claims provide their own best evidence as to the reasons for allowance.

It is respectfully submitted that the claims are not constrained by such improper comments, statements, and incorporation from the specification by the Examiner, and that the claims speak for themselves as to what features are included therein.

In summary, it is submitted that the Examiner's Statement "raises possible misinterpretations... and possible estoppel effects" (MPEP §1302.14) and is therefore improper.

Respectfully submitted,

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